IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA BIG STONE GAP DIVISION

UNITED STATES OF AMERICA)	
)	
)	Case No. 2:05CR00029
)	
V.)	ORDER
)	
MICHAEL DAVID BEAR,)	By: James P. Jones
)	United States District Judge
Defendant.)	

For the reasons set forth in the Opinion accompanying this Final Order, it is **ORDERED** as follows:

- 1. The defendant's motion, styled as "Judicial Notice Rules of Evidence § 201," and his motions for appointment of counsel and for an evidentiary hearing (ECF Nos. 96, 97, 98) are DENIED, and the defendant's submission is CONSTRUED as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C.A. § 2255;
- 2. The Clerk is DIRECTED to redocket the motion (ECF No.96) as a § 2255 motion;
- 3. The § 2255 motion is hereby DENIED without prejudice as successive and stricken from the active docket; and

4. A Certificate of Appealability is DENIED, based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right.

ENTER: June 29, 2012

/s/ James P. Jones

United States District Judge